

## REMARKS

### **I. Status of the Claims**

Claims 15-17, 20, and 39 are cancelled by the current amendment.

Claims 18, 21-38, 41, and 42 are amended.

Claims 18, 19, 21-38, and 40-42 are currently pending.

### **II. Response to the Official Communication**

Applicant hereby explicitly reserves the right to pursue any cancelled material in one or more subsequent divisional or continuation applications.

A. Claims 16 and 20 are objected to as allegedly being duplicates of claims 15 and 19, respectively. In response, Applicant notes that claims 16 and 20 are cancelled by the current amendment. Consequently, objection to these claims is moot and may be withdrawn.

B. Claims 17 and 39 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. In response, Applicant notes that claims 17 and 39 are cancelled by the current amendment. Consequently, rejection of these claims is moot and may be withdrawn.

C. Claims 15 and 16 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Mellors *et al.* or Shafer *et al.* in view of WO 94/12670. In response, Applicant notes that claims 15 and 16 are cancelled by the current amendment. Therefore, rejection of these claims is moot and may be withdrawn.

D. Claim 17 is rejected, under 35 U.S.C. §103(a) as allegedly being unpatentable over Mellors *et al.* or Shafer *et al.* in view of WO 94/12670 and in further view of Tedder *et al.* (WO 93/21339). In response, Applicant notes that claim 17 is cancelled by the instant amendment. Accordingly, rejection of this claim is moot and may be withdrawn.

E. Claims 15-42 are rejected under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1-10 of U.S. Patent No. 6,331,389 and claims 1-9 of U.S. Patent No. 6,087,093. Applicant responds as follows.

First, Applicant notes that claims 15-17, 20, and 39 are cancelled by the instant amendment. Consequently, rejection of those claims is moot and may properly be withdrawn.


With respect to claims 18, 19, 21-38, and 40-42, Applicant encloses herewith a terminal disclaimer executed pursuant to 37 C.F.R. § 1.321(c) and authorizes the payment of the fee required by 37 C.F.R. § 1.20(d). It is believed that this terminal disclaimer is fully responsive to and overcomes the obviousness-type double patenting rejection. Accordingly, Applicant believes that this rejection can be properly withdrawn.

### **III. Conclusion**

In view of the "Amendments to the Claims" and in further view of the "Terminal Disclaimer" submitted herewith, Applicant believes that all objections and/or rejections to the claims and/or specification have been overcome and that the case is now in condition for immediate allowance. Accordingly, Applicant respectfully requests favorable reconsideration of this application and issuance of a "Notice of Allowance" therefor.

The Examiner is invited to contact the undersigned patent agent at (713) 787-1589 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



Matthew L. Madsen

Reg. No. 45,594

Patent Agent for Assignee

INNOGENETICS N.V.

HOWREY SIMON ARNOLD & WHITE, LLP  
750 Bering Drive  
Houston, Texas 77057-2198  
(713) 787-1400

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